

**THE PEOPLE OF THE STATE OF CALIFORNIA  
BY AND THROUGH THE COMMISSIONER OF CORPORATIONS**

In the Matter of )  
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DEUTSCHE BANK SECURITIES, INC., )  
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Respondent. )  
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## ADMINISTRATIVE CONSENT ORDER

WHEREAS, DEUTSCHE BANK SECURITIES, INC. (“Deutsche Bank”) is a broker-dealer registered in the State of California;

WHEREAS, a coordinated investigation into Deutsche Bank’s activities in connection with certain of its research and investment banking practices during the period of approximately 1999 through 2001 has been conducted by a multi-state task force and a joint task force including the U.S. Securities and Exchange Commission, the New York Stock Exchange, and the National Association of Securities Dealers (collectively, the “regulators”);

WHEREAS, the California Department of Corporations participated in the coordinated investigation, with the assistance of the District of Columbia Securities Bureau and the State of Maryland Attorney General's Office, into the practices at Deutsche Bank;

WHEREAS, Deutsche Bank has cooperated with the above securities regulators during the investigation by providing documentary evidence and other materials, and providing regulators with access to facts relating to the investigations;

WHEREAS, Deutsche Bank has agreed to resolve the aforementioned investigation;

WHEREAS, Deutsche Bank agrees to adopt and implement certain changes to equity research and investment banking business practices, and to make certain payments as set forth herein:

WHEREAS, Deutsche Bank voluntarily elects to permanently waive any right to a hearing and appeal under the California Corporate Securities Law pursuant to Corporations Code section 25532(d) with respect to this Administrative Consent Order (the “Order”);

WHEREAS, The Department of Corporations has jurisdiction over this matter pursuant to

1 the California Corporate Securities Law sections 25000, et seq.:

2 WHEREAS, The Commissioner of Corporations finds the following relief appropriate and  
3 in the public interest; and

4 NOW, THEREFORE, the Commissioner of Corporations, as administrator of the California  
5 Corporate Securities Law, hereby enters this Order:

6 **I. ALLEGATIONS OF FACT**

7 1. Deutsche Bank admits the jurisdiction the California Department of Corporations,  
8 neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order, and  
9 consents to the entry of this Order by the Commissioner of Corporations.

10 2. The Commissioner of Corporations finds the following facts applicable to this  
11 action:

12 **A. General Findings Of Fact:**

13 3. From July 1999 through June 2001 ("the relevant period"), Deutsche Bank engaged in  
14 acts and practices that created and/or maintained inappropriate influence by investment banking  
15 over research analysts, thereby creating conflicts of interest for its research analysts. Deutsche  
16 Bank failed to manage these conflicts in an adequate manner. During this time period, Deutsche  
17 Bank offered research coverage in order to gain investment banking business and receive  
18 investment banking fees. It also received over \$1 million from other investment banks to provide  
19 research coverage of their investment banking clients, and made payments of approximately \$10  
20 million to other securities firms primarily for research coverage for its investment banking clients.  
21 In addition, Deutsche Bank compensated its research analysts based in part upon their contributions  
22 to Deutsche Bank's investment banking business. These relationships and activities constituted  
23 substantial conflicts of interest for Deutsche Bank's research analysts.

24 4. Deutsche Bank failed to establish and maintain adequate policies and procedures  
25 reasonably designed to manage these conflicts of interest.

26 5. Deutsche Bank also failed to promptly produce copies of e-mail communications that  
27 had been requested by the staff during the investigation. Despite repeated inquiries from the staff  
28 and state investigators, Deutsche Bank insisted during the investigation that its production of the e-

1 mail was complete. In fact, Deutsche Bank had produced less than one-fourth of the responsive e-  
2 mail by April 2003. Over the next year, Deutsche Bank produced another 227,000 e-mail, more  
3 than tripling its original production and delaying completion of the investigation for over a year.

## 4 **DEFENDANT**

5 6. Deutsche Bank Securities Inc. is a Delaware corporation with its headquarters and  
6 principal executive offices in New York, New York. It has branch offices throughout the U.S.,  
7 including Washington, D.C., San Francisco, Los Angeles, and Baltimore. Deutsche Bank is a  
8 broker-dealer registered with the Commission pursuant to Section 15(b) [15 U.S.C. § 78o(b)] of the  
9 Exchange Act and is a member of NASD and NYSE. Deutsche Bank provides a comprehensive  
10 range of advisory, financial, securities research, and investment services to corporate and private  
11 clients. Deutsche Bank's clients include both institutional investors and individual investors (often  
12 referred to as "retail customers"). Deutsche Bank also provides investment banking services to  
13 corporate clients.

## 14 **FACTUAL ALLEGATIONS**

### 15 **I. BACKGROUND**

#### 16 **A. The Role of Research Analysts at Deutsche Bank**

17 7. Deutsche Bank has a securities research department called the "equity research  
18 department," which provides its investment clients and the public with research reports on certain  
19 public companies. Research analysts at Deutsche Bank are generally assigned to review the  
20 investment outlook of specific public companies within a certain industry or sector, such as  
21 technology or biosciences. This is called "covering" a company's stock. In their research reports,  
22 analysts typically review the performance of the covered companies, evaluate their business  
23 prospects, and provide analysis and projections regarding the future prospects of the company.  
24 They also provide a rating or recommendation as to whether the company presents a good  
25 investment opportunity, and often provide a price target (the market price at which the analyst  
26 expects the stock to trade within a given time).

27 8. During the relevant period, Deutsche Bank analysts made themselves available via  
28 telephone, electronic mail, and in person to the firm's institutional and retail sales force to answer

1 questions about industry sectors and companies covered by the analyst. In addition, analysts  
2 provided periodic research updates to the sales forces through “morning calls” held before the start  
3 of trading.

4 9. During the relevant period, Deutsche Bank had a four-point rating system: “Strong  
5 Buy”; “Buy”; “Market Perform”; and “Market Underperform.” According to the firm’s policy, a  
6 “Strong Buy” or “1” rating meant that “DBSI expects, with a high degree of confidence, that the  
7 securities will significantly outperform the market time frame and that the time to buy the  
8 securities is now.” A “Buy” or “2” rating meant that “DBSI expects that the securities will out  
9 perform the market by 10% or more over the next 12 months.” A “Market Perform” or “3” rating  
10 meant that “DBSI expects that the securities will broadly perform in line with the local market over  
11 a 12-month period and the share price is likely to trade within a range of +/- 10%.” A “Market  
12 Underperform” or “4” rating meant that “DBSI expects the securities to underperform against the  
13 local market by 10% or more over the next 12 months.”

14 10. During the relevant time period, a substantial majority of the companies covered by  
15 Deutsche Bank’s analysts in the technology, biotechnology, media, and telecommunications  
16 sectors received a Buy or Strong Buy rating. In contrast, only one of the more than 250 companies  
17 covered by Deutsche Bank during the time period had lower than a Market Perform. Accordingly,  
18 what Deutsche Bank held out as a four-point rating system for stocks in the above sectors was  
19 effectively a three-point system.

20 11. Deutsche Bank distributed its analysts’ research reports internally to various  
21 departments at the firm, made the reports available to its institutional and retail customers, and  
22 disseminated the reports to subscription services such as First Call and Bloomberg. The firm’s  
23 customers received the research reports through the firm’s website and also through electronic mail  
24 or postal mail if they were on the firm’s mailing lists. Analysts’ recommendations were also  
25 reported in the U.S. financial news media.

26 12. Deutsche Bank held out its research analysts as providing independent, objective and  
27 unbiased information, reports, and recommendations upon which investors could rely in making  
28 informed investment decisions.

1           **B. Investment Banking at Deutsche Bank**

2           13. Deutsche Bank's investment banking division assists companies with raising capital  
3 through initial public offerings ("IPOs"), "follow-on" offerings (subsequent offerings of stock to  
4 the public), and private placements of stock. It also assists companies with negotiating and  
5 brokering other corporate transactions, such as mergers and acquisitions. During the relevant  
6 period, investment banking was an important source of revenue for Deutsche Bank, accounting for  
7 approximately 29.2% of its total revenues.

8           14. Deutsche Bank generally competes with other investment banks for selection by issuers  
9 and other sellers of securities as lead underwriter or "bookrunner" on securities offerings. The lead  
10 underwriters receive the largest portion of the investment banking fees, called underwriting fees;  
11 accordingly, there are significant financial rewards to being selected as the lead underwriter. The  
12 lead underwriters also establish the allocation of shares in a securities offering and typically retain  
13 the greatest number of shares for themselves. The typical IPO generates significant investment  
14 banking fees for the lead underwriters. During the relevant period, Deutsche Bank was the ninth  
15 largest underwriter in the U.S. securities market, receiving about \$1.15 billion in investment  
16 banking fees.

17           15. In addition to their research responsibilities, analysts assisted investment bankers in  
18 performing due diligence on investment banking transactions.

19           **II. DEUTSCHE BANK'S RESEARCH STRUCTURE**  
20           **CONTAINED CONFLICTS OF INTEREST**

21           16. Because Deutsche Bank did not charge for its research, the Americas Equity Research  
22 Department at Deutsche Bank was a "cost center." Its costs were substantially funded by the  
23 firm's departments responsible for institutional clients and investment banking. During the  
24 relevant period, the equities department funded 50% of the research department's expenses, the  
25 investment banking department funded 43%, and the retail department funded 7%.

26           17. Investment banking considerations were an important factor in deciding what research  
27 to provide and how much research analysts were paid. As stated below, Deutsche Bank's  
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1 compensation structure rewarded analysts for investment banking deals consummated in their  
2 sectors. Investment banking interests also played a role in determining which companies would be  
3 covered by the firm's analysts and which would be dropped.

4       **A.       Analysts' Compensation Was Determined In Part By**  
5       **The Analysts' Contribution to Investment Banking Revenues**

6           18. In order to "align" the interests of the analysts with the interests of the other  
7 departments at the firm whose revenues funded the research department, Deutsche Bank created an  
8 "analyst performance matrix" that ranked all of Deutsche Bank's analysts based upon several  
9 criteria. Beginning in 2000, Deutsche Bank determined bonuses for its research analysts based  
10 upon this matrix. These bonuses, which ranged from hundreds of thousands to millions of dollars,  
11 made up the vast majority of most analysts' compensation.

12           19. In 2000, under the matrix, one-third of an analyst's ranking was based upon the  
13 analyst's contribution to investment banking, one-third upon his or her contribution to the  
14 institutional investor franchise, and one-third upon the research director's subjective assessment.  
15 In 2001, a fourth equally-weighted category – the analysts' ranking in independent surveys, such as  
16 the All American Institutional Investor Poll – was added to the matrix.

17           20. Analysts received "credit" for all investment banking deals in their sector (regardless of  
18 whether they worked on the deal), as well as deals outside their sector to which they contributed  
19 personally. This amount was then adjusted upward or downward by 25-30% based upon the  
20 reviews provided by the investment bankers who worked with the analyst. Thus, if an analyst was  
21 helpful to investment bankers in the analyst's sector by, for example, generating deals for his  
22 sector, the analyst could get a high rating from the investment banker and thus increase his rating in  
23 the matrix and, potentially, the size of the analyst's bonus.

24           21. Investment bankers rated analysts based on a scale of 1 ("Analyst Extremely Important  
25 To A Majority Of Investment Banking Revenue. Without The Analyst, Our Revenue Would Have  
26 Been More Than 50% Below What We Generated.") to 5 ("Analyst Had A Negative Impact On  
27 Investment Banking Revenue."). Analysts at the top of the matrix – and thus who received the  
28

1 largest bonuses – typically received all 1’s or 2’s from investment bankers, as well as scored highly  
2 in other areas of the matrix.

3 22. Deutsche Bank research management circulated draft quarterly investment banking deal  
4 reports to analysts to verify the investment banking deals for which analysts were to receive credit.  
5 Analysts were encouraged to, and did, respond to these reports with additional examples of deals in  
6 their sector or on which they had worked.

7 23. In these responses and in the yearly performance self-evaluations that analysts  
8 completed, many analysts identified the importance of their work in bringing investment banking  
9 business to Deutsche Bank and the value of that work to the firm. For example, analysts stated in  
10 their self-evaluations:

- 11 (a) “Won two lead managed IPO mandates ... Won one secondary offering ... as  
12 a result of relationship with management team (our investment bankers did  
13 not have any previous relationship with the Company). ... DBAB generated  
14 a \$400K (roughly) fee. Participated in winning mandate on ... convertible  
15 debt offering despite previous ... analyst leaving DBAB. ... DBAB earned  
16 a \$10M (roughly) fee.... My previous management relationships allowed the  
17 firm to make equity investment in a number of promised private  
18 communications equipment companies.”;
- (b) Completed 8 banking deals ..., generating an estimated \$8-10 million in  
fees; 7 of the 8 were either research driven or solely research driven ... Were  
invited to pitch ... the \$2-3 billion . . . IPO; I started the ball rolling.”

19 24. In certain instances, research management requested that analysts complete “business  
20 plans,” such as when transitioning coverage from one analyst to another. Analysts discussed the  
21 investment banking imperatives that they had addressed through coverage of certain areas or  
22 companies or otherwise. For example, in an April 2001 e-mail exchange between two analysts,  
23 one analyst said that he was told one of his goals for the year was to “generate at least as much in  
24 banking fees as he did last year.”

25 25. Research management based promotion decisions in part upon the analyst’s assistance  
26 to the firm’s investment banking business.

27 26. In sum, research analysts at Deutsche Bank were compensated millions of dollars in  
28 part for their contribution in winning the business of investment banking clients, for whom they

1 issued reports and recommendations.

2 **B. Investment Banking Interests Influenced Coverage Decisions**

3 27. The research department at Deutsche Bank made decisions about the stocks on which  
4 its analysts would initiate and maintain coverage based in part upon investment banking concerns.  
5 According to the director of research, investment banking opportunities were a factor in  
6 determining research coverage. For example, one analyst testified that he agreed to maintain  
7 coverage of certain companies he would otherwise drop until the banker had the opportunity to  
8 “close” the transactions the banker was hoping to win.

9 28. In another example, an analyst expressed her disappointment in a February 2001 e-mail  
10 that Deutsche Bank had not been included in an offering by Charlotte Russe Holding Inc. The  
11 analyst stated that “the only reason we picked up coverage of the stock [Charlotte Russe Holding  
12 Inc.] was to be involved in IB flow.” The analyst had just rated the company a “Buy” on  
13 December 21, 2000.

14 29. Analysts also routinely identified to their investment banking counterparts private  
15 companies that might go public. Often, it was the research analyst’s relationship with the company  
16 that convinced the company to use Deutsche Bank’s investment banking services. If the company  
17 did indeed use Deutsche Bank for its investment banking business, the analyst would typically  
18 cover the company for Deutsche Bank. The fact that the analyst had originated Deutsche Bank’s  
19 investment banking transaction with the company that he covered presented a potential conflict of  
20 interest.

21 30. In July 2000, a banker in the Hong Kong office of Deutsche Bank sent an e-mail to the  
22 director of research stating that “the lack of coverage [of Pacific Century Cyberworks] continues to  
23 be a major problem in our relationship, and we have been categorically assured that none of [the  
24 company owner’s] (very substantial) deal flow will come our way until we make good on our  
25 promise . . . .” The director of research later sent an e-mail to his assistant stating “we need to have  
26 active, co-coverage of this name in the US. been [sic] a big fee paying customer of ours that we  
27 have promised US coverage that past US research management agreed to.”

28 31. In addition to initiating positive coverage on investment banking clients, Deutsche Bank

1 research analysts at times maintained favorable ratings on investment banking clients' stocks, even  
2 in the face of precipitous declines in the stocks' prices.

3 32. For example, Deutsche Bank acted as a lead underwriter for the Webvan IPO in  
4 November 1999 and initiated coverage with a Strong Buy rating and \$50 price target shortly  
5 thereafter. At the time, the stock was trading at \$24.69. In a series of reports issued in April-July  
6 2000, although the new analyst covering the stock recognized and discussed significant risk factors  
7 facing the company in his reports, he maintained the Strong Buy rating (with no price target) even  
8 as the stock dropped to the \$6-9 range. On September 15, 2000, with the stock trading at \$3.47, the  
9 analyst downgraded Webvan to a Buy. On January 10, 2001, with Webvan at \$0.44, the analyst  
10 downgraded it to Market Perform, and held that rating on July 9, 2001, when Webvan declared  
11 bankruptcy.

12 33. Similarly, in March 2000, Deutsche Bank had a Strong Buy recommendation on the  
13 stock of Peregrine Systems. At the time, the stock was trading at over \$70. In April 2000,  
14 although the stock had dropped to \$24.50, Deutsche Bank maintained its Strong Buy  
15 recommendation. Deutsche Bank continued its Strong Buy recommendation until the stock price  
16 hit \$0.24 in September 2002.

17 **C. Deutsche Bank Implicitly Promised Potential**  
18 **Investment Banking Clients Favorable Research Coverage**

19 34. To win investment banking business for a public company, securities firms typically put  
20 together a presentation (soliciting an issuer's investment banking business is called "pitching the  
21 company"). Investment banks make "pitches" for any kind of investment banking business, most  
22 frequently for initial public offerings ("IPOs") and follow-on offerings. The presentation material  
23 is referred to as a "pitchbook." The pitchbooks were presented to the company's management by  
24 Deutsche Bank investment bankers.

25 35. During the relevant period, Deutsche Bank implicitly promised in its pitchbooks that its  
26 research analysts would cover the company if the company gave it investment banking business.  
27 Deutsche Bank pitchbooks spoke of the firm's "commitment to research" and to the company,  
28

1 stating that Deutsche Bank's "commitment doesn't end with the IPO" and that Deutsche Bank  
2 would "be [the company's] leading advocate." Analysts prepared one section of the pitchbooks,  
3 entitled "Research Positioning." Deutsche Bank analysts typically prepared this section after  
4 completing some due diligence on the company and discussed in the section how the analyst would  
5 market the company to investors in research reports. Generally, the research positioning section of  
6 the pitchbook made a variety of positive statements about the company. For example, the  
7 pitchbook would sometimes state that Deutsche Bank analysts would promote the company's  
8 "compelling business model," its action in "rebuilding supply chains to provide superior value to  
9 producers and customers," or its "huge market opportunity." Pitchbooks described analysts as the  
10 "key 'Champion'" of the pitched companies.

11 36. In other pitchbooks, positive research coverage was suggested by reference to Deutsche  
12 Bank's positive coverage of other companies. Deutsche Bank described how the analyst had  
13 covered another company – and how the analyst's favorable ratings of the stock corresponded with  
14 the stock's rise in price. For example, the December 11, 2001 pitchbook for LeapFrog Enterprises,  
15 Inc. ("LeapFrog") identified the analyst's reports on another company – his Buy and Strong Buy  
16 ratings of that company in frequent research reports – and graphed them against the stock price of  
17 the company to suggest that the analyst's ratings and reports assisted in the increase in the stock's  
18 price. Several months later, Deutsche Bank was selected as a co-manager for LeapFrog and  
19 received investment banking fees.

20 37. Deutsche Banks' pitchbooks also typically discussed the "research commitment" of the  
21 firm, stating that the analyst would engage in various activities in connection with the IPO,  
22 including pre-marketing, marketing, initial coverage, ongoing coverage, industry reports,  
23 sponsorship of visits, dinners with key investors, and investor presentations. The analyst also  
24 assisted the investment bankers in performing due diligence on the company, and had a say in  
25 whether the firm would participate in the offering. If the analyst did not support the deal, the firm  
26 typically would not proceed with the offering.

27 38. In addition to preparing part of the pitchbook, research analysts often accompanied  
28 investment bankers on the pitches to the company. After the pitch and once Deutsche Bank was

1 selected as the underwriter, the analyst typically worked together with the investment banker to  
2 (among other things) perform additional “due diligence” on the offering and participated in so-  
3 called “roadshows” to meet institutional investors.

4 39. It was understood by all parties involved - the analyst, the underwriters, and the issuer -  
5 that the analyst would speak favorably about the issuer when initiating coverage. Indeed, at least  
6 one pitchbook implied that Deutsche Bank would provide favorable coverage. In October 1999,  
7 Deutsche Bank marketed a European-based company called Autonomy Corp. for its U.S. IPO. (At  
8 the time, Deutsche Bank had an analyst in London covering the company for the European  
9 markets.) The pitchbook for Autonomy showed a timeline for the deal and indicated that after the  
10 “quiet period” (a period of time after an offering during which the underwriting firms cannot  
11 publish research), the analyst would “Raise Rating and Estimates.” After the pitch, Deutsche Bank  
12 became the lead underwriter. The analyst who was involved in the pitch began covering the  
13 company in the U.S. after its U.S. IPO at the same Buy rating that his European counterpart had  
14 used prior to the U.S IPO.

15 40. In another example, an analyst sent an e-mail to an issuer stating the analyst would  
16 provide bi-monthly research coverage on the issuer “if [Deutsche Bank were] meaningfully  
17 included in [the issuer’s] financing activities.” The analyst also stated that she would present the  
18 issuer to Deutsche Bank’s sales force once a week and to publish several in-depth reports to send  
19 out to Deutsche Bank’s institutional base.

20 41. The foregoing all contributed to Deutsche Bank’s ability to win investment banking  
21 deals and receive investment banking fees from such offerings and subsequent investment banking  
22 relationships.

23 **D. Deutsche Bank Knew That Research Was An**  
24 **Important Factor In Winning Investment Banking Business**

25 42. Deutsche Bank knew that companies expected the firm to commit to provide them with  
26 research coverage before they would award the firm investment banking business. For example, in  
27 an e-mail from Deutsche Bank’s Asia office, a banker reported that a company told them that “for  
28

1 any future business, [they] had to have research coverage and it had to be from a U.S. analyst ...  
2 the lack of coverage continues to be a major problem in our relationship, and we have been  
3 categorically assured that none of deal flow will come our way until we make good on our  
4 promise.” Thus, in at least some cases, companies often demanded research coverage before  
5 selecting an investment banker.

6 43. Indeed, at least one company conditioned payment of its investment banking fee to  
7 Deutsche Bank upon receiving research coverage after the transaction. Proxima ASA withheld  
8 payment to Deutsche Bank of approximately \$6 million in investment banking fees relating to its  
9 merger with another company in 2000 because Deutsche Bank had not published research on the  
10 company. After Deutsche Bank subsequently issued a September 21, 2001 research report on the  
11 company, the fee was paid.

12 44. In some instances, Deutsche Bank analysts also internally suggested conditioning the  
13 continuation of research coverage upon whether the company gave Deutsche Bank its investment  
14 banking business. One analyst e-mailed the director of research in April 2000 and asked whether  
15 he should tell a company whom he believed had misled him about its earnings report that he would  
16 drop coverage, unless they brought their recently announced financing transaction to Deutsche  
17 Bank. The director of research responded, “I think that is EXACTLY *[sic]* what you should do.”  
18 The firm ultimately did not drop coverage.

19 **III. IN CERTAIN INSTANCES, THE FIRM PUBLISHED**  
20 **EXAGGERATED OR UNWARRANTED RESEARCH**

21 45. In certain instances, Deutsche Bank analysts gave advice to institutional clients or  
22 others that conflicted with their published ratings on particular stocks, thus indicating that in those  
23 instances, Deutsche Bank published research that was exaggerated, unwarranted , or unreasonable.

24 46. In the spring of 2001, one of Deutsche Bank’s analysts met with a large institutional  
25 client of the firm to discuss the stocks that analyst covered. One of those stocks was Oracle, on  
26 which the analyst had Buy recommendations in his published research on March 1, 2001, March  
27 15, 2001, and April 30, 2001. After meeting with the analyst in the spring of 2001, the institutional  
28

1 investor placed an order with Deutsche Bank to sell more than a million shares of its position in the  
2 stock. Immediately after that sale, the Deutsche Bank institutional salesperson responsible for the  
3 account sent an e-mail to the director of research, commending the analyst's performance and  
4 stating that the client would be sending its *Institutional Investor* votes to the analyst. (Subscribers  
5 vote for analysts that have provided information in an annual poll of the most influential research  
6 analysts conducted by *Institutional Investor* magazine.) Other institutional salespeople also  
7 commented about the analyst's helpfulness to them, stating that he had put a "great sell on Oracle."

8 47. In another example, an analyst in the software application sector e-mailed an  
9 investment banker in April 2001 on another stock he covered, Eprise Corp., with a "request to drop  
10 coverage," stating that the "stock continues to trade below \$1 and these guys are permanent toast."  
11 The analyst had a January 5, 2001 Market Perform rating on the stock at the time.

12 48. In April 2002, an analyst communicated to an executive officer of Deutsche Bank's  
13 investment banking client, Getty Images, Inc., about the price target he had given the company in  
14 and April 5, 2002 report. He told the executive not to worry about his current price target, because  
15 he would consider raising it at another time:

16 I thought my approach was appropriately supportive of my favorite company, but  
17 still realistic.... My best guess is the stock stays in a trading range pending another  
18 quarter's evidence of [the client's] superior operating skills, leveraged by further  
19 improvements in the ad market. This leaves me room to boost the target price in  
20 conjunction with future increases in the earnings estimates. I certainly wouldn't  
21 want to put you under any near-term pressure by raising the bar too high. After all,  
22 I'm only thinking about you!

#### 23 **IV. DEUTSCHE BANK RECEIVED AND MADE PAYMENTS FOR** 24 **SERVICES THAT INCLUDED THE PROVISION OF RESEARCH**

25 49. During the relevant time period, Deutsche Bank received over \$1 million from other  
26 investment banks for services that included research coverage of those firms' banking clients. In  
27 addition, it made payments of approximately \$10 million to other brokers for services that included  
28 research coverage of Deutsche Bank's banking clients. These payments were made from the  
underwriting proceeds of the transaction, and in certain instances, were directed by the issuers.

50. In a January 2000 e-mail discussing the "norm" on Wall Street, a banker stated that for  
transactions above \$75 million, "there are plenty of gross spread dollars to be allocated for future

research coverage in the management fee.”

**A. Deutsche Bank Received Payments for Research**

51. During the relevant time period, Deutsche Bank received payments on at least four deals for which it was not the lead or co-lead manager. Internal documents at the firm reflect that these payments were made for research.

52. For example, in the spring of 2001, Deutsche Bank was covering Transkaryotic Therapeutics, Inc. with a “Strong Buy” and was pitching for the company’s investment banking business. When the company selected another investment bank, the research analyst called Transkaryotic and expressed his displeasure that Deutsche Bank had not been selected to do the deal. The analyst told the company that he had spent his morning on the phone supporting the deal and that it was the analyst’s upgrade of the stock from a Market Perform to a Strong Buy several weeks before that had increased the stock price and helped make the deal a success. The company directed that Deutsche Bank receive a payment of \$300,000 from the underwriting proceeds. The analyst recorded in his self-evaluation form for that year that the firm had been “paid for our research” on this and one other deal.

53. Similarly, in October 1999, a company called Emisphere, which was not being covered by Deutsche Bank, decided to do a follow-on offering. Although Deutsche Bank did not participate in the deal, it received an \$87,500 payment from the proceeds of the deal. The deal sheet and the \$87,500 check from the lead manager both reflected that the payment was made “for research.” In fact, the deal sheet stated “Not in Deal / Received \$87500.00 for research.” Moreover, a contemporaneous internal e-mail from Deutsche Bank states that “[t]here was talk about us participating in the deal but b/c of the small size, proposed economics, etc we opted to pass. However, we did agree to pick up research coverage and a[s] result we will be getting the sales credit on 10% of the institutional pot.” (During an offering, whenever the sale of shares to large institutional clients cannot be attributed to the selling efforts of any one firm, the commissions for the sales are placed into an “institutional pot.” The credits are then divided among the firms as selling concessions.) Deutsche Bank initiated research coverage of Emisphere with a Buy recommendation on November 17, 1999, after the end of the quiet period. The research

1 report did not disclose the \$87,500 payment.

2 54. Deutsche Bank also received a payment of \$150,000 in March 2000 for research on  
3 United Therapeutics, Inc. and a payment of \$375,764 in December 2001 for covering Trimeris, Inc.

4 55. In each of the four instances where Deutsche Bank received a payment for research,  
5 Deutsche Bank was not a member of the underwriting syndicate. (In several of the instances,  
6 Deutsche Bank was considered a member of the “selling group;” however, the selling group  
7 members do not retain any underwriting risk and Deutsche Bank did not acquire or sell any shares  
8 in these offerings.) The payments were made from the underwriting proceeds of the offerings. The  
9 payments totaled over \$900,000.

10 56. In each instance, Deutsche Bank issued research reports recommending the stocks of  
11 the issuers involved in the offerings. Emisphere was initiated at a “Buy”; the ratings of the three  
12 stocks already covered by Deutsche Bank did not change. However, in all four instances, Deutsche  
13 Bank failed to disclose in its research reports that the firm had received the payments and the  
14 source and amount of the payments.

15 **B. Deutsche Bank Made Payments To Other Firms for Coverage**

16 57. During the relevant period, Deutsche Bank made payments to other investment banking  
17 firms to have them, among other things, provide research coverage of Deutsche Bank’s investment  
18 banking clients. A senior executive in Deutsche Bank’s Equity Capital Markets department  
19 testified that, during the relevant time period, these payments were made on “one out of four” deals  
20 for which Deutsche Bank was the lead or co-lead manager.

21 58. Although in many instances the payments were made at the issuer’s direction, Deutsche  
22 Bank actively participated in the process. In its pitches for the business, Deutsche Bank advised  
23 the issuer that it would select members for the underwriting syndicate based upon that firm’s  
24 ability to provide research coverage. In at least one instance, Deutsche Bank advised its client that  
25 it would be possible to “attract specific additional Research Analysts” by offering them free  
26 retention shares.

27 59. During the relevant period, Deutsche Bank made these payments in at least 25 offerings  
28 where it was the lead or co-lead manager. The payments, which came from the underwriting

1 proceeds, were made to at least 35 other broker-dealers who either were not part of the  
2 underwriting syndicate or who received a payment significantly in excess of their underwriting fee  
3 on the transaction. In many of these instances, Deutsche Bank's internal e-mail and other internal  
4 documents recorded these payments as "research payments."

5 60. For example, Deutsche Bank was the lead manager for U.S. Aggregates' follow-on  
6 offering of 5.475 million shares of stock in August 1999. The dealer book (the document used by  
7 Deutsche Bank to track firms' involvement in the deal) noted under one firm's name:  
8 "RESEARCH FOR \$\$ ADDL 100M SHARES OF CREDIT." The dealer book made similar  
9 notations for other firms.

10 61. Similarly, Deutsche Bank was the lead manager Endwave Corporation's follow-on  
11 offering of 6.9 million shares of stock in October 2000. Deutsche Bank's dealer book reflected that  
12 another firm would receive payment as part of the deal and notes that the Deutsche Bank deal  
13 captain "spoke to Jan – their going rate is \$100,000 – no less for research, she will follow with [ ]  
14 analyst...." On January 12, 2001, Deutsche Bank sent a \$100,000 check to the firm. The  
15 accompanying statement reflected that the payment was a "Research Payment."

16 62. Although not all of the firms appear to have issued research after receiving the  
17 payments, internal e-mails indicate that Deutsche Bank policed the other firms to ensure that  
18 research was in fact issued. For example, in connection with Deutsche Bank's lead-managed  
19 follow-on offering for Align Technologies, Inc. in January 2001, one of the deal captains wrote,  
20 "They [another firm] owe us on a past deal for which they promised and got paid on research but  
21 lost the analyst prior to rollout. They are picking this up regardless with no fees associated."

22 63. In all, Deutsche Bank made payments totaling over \$10 million on at least 50 deals in  
23 order to have other firms provide research coverage of Deutsche Bank's investment banking  
24 clients. These payments were not disclosed in the prospectus or other publicly available  
25 documents disclosing the terms of the underwriting deal. Deutsche Bank did not take steps to  
26 ensure that these firms disclosed in their research reports that they had been paid to issue research.  
27 Further, where applicable, Deutsche Bank did not disclose or cause to be disclosed in the offering  
28 documents or elsewhere the details of these payments.

1 **V. DEUTSCHE BANK FAILED TO REASONABLY SUPERVISE**  
2 **RESEARCH ANALYSTS' ACTIVITIES AND TO ESTABLISH**  
3 **PROCEDURES TO GUARD AGAINST IMPROPER CONDUCT**

4 64. Deutsche Bank failed to establish and maintain adequate policies and procedures to  
5 ensure the objectivity and independence of its research reports and recommendations. Although  
6 Deutsche Bank had written policies governing the preparation and distribution of research during  
7 the relevant period, these policies were not reasonably designed to prevent or manage conflicts of  
8 interest that existed between research and investment banking.

9 65. In addition, at least several analysts were unfamiliar with or did not comply with the  
10 policies. Deutsche Bank's written policies in effect after May 2001 prohibited research analysts  
11 from sending issuers draft reports containing the analysts' recommendations and price targets. At  
12 least one analyst was unaware of this policy; other analysts admitted that even though they knew of  
13 the policy, they violated it by sending draft reports with recommendations and price targets to  
14 issuers for comment before the reports were published.

15 **VI. DEUTSCHE BANK FAILED TO PROMPTLY**  
16 **PRODUCE ALL ELECTRONIC MAIL**

17 66. In April 2002, the Commission's staff and federal regulators requested that Deutsche  
18 Bank produce all e-mail for a two-year period for certain employees in its research and investment  
19 banking departments. At the same time, Deutsche Bank was asked to not delete e-mail or  
20 overwrite e-mail backup tapes. Deutsche Bank agreed to the requests, sent out such instructions,  
21 and began producing e-mail. State regulators joined in the investigation in coordination with the  
22 federal regulators.

23 67. In their review of Deutsche Bank's production, the staff and California state regulators  
24 noticed apparent discrepancies in the volume of e-mail that was being produced for various  
25 individuals. The regulators also believed that anticipated responses to certain e-mails were missing  
26 and the production appeared to be incomplete. These discrepancies were immediately brought to  
27 the attention of Deutsche Bank. Deutsche Bank repeatedly assured the regulators that its e-mail  
28 production was complete. Responding to the issues raised by the regulators, the firm stated that the  
variance in the volume of emails for particular individuals was attributable to a) individual

1 practices (that is, that some people received and kept more e-mail than others), b) the fact that  
2 different entities that now comprised Deutsche Bank had differing historical e-mail retention  
3 practices, or c) Deutsche Bank's failure to maintain all of its e-mail for the required three-year time  
4 period, for which the firm had been fined \$1.65 million in joint actions by the Commission, the  
5 NASD, and the NYSE in December 2002.

6 68. The regulators continued to examine the production discrepancies. One discrepancy  
7 involved Deutsche Bank's production of e-mails for only twelve of the twenty-four months for the  
8 e-mail server located in its San Francisco office. Ultimately, on the eve of the Global Settlement in  
9 April 2003, Deutsche Bank, based on inquiries by California state regulators, determined that one  
10 or more e-mail backup tapes had not been restored to retrieve available e-mail, and so informed the  
11 regulators. Deutsche Bank subsequently learned, and informed the regulators, that in numerous  
12 instances, their production retrieval process had failed.

13 69. Deutsche Bank failed to ensure that it was producing all responsive e-mail. Deutsche  
14 Bank relied upon the statements of low level supervisory and information technology personnel  
15 that all available e-mail had been produced, without confirming that such assurances were accurate.  
16 The information technology personnel who retrieved the email data from backup tapes and other  
17 storage media did not have sufficient guidance and had not been adequately trained on how to  
18 respond to regulatory or other requests for e-mail. Despite Deutsche Bank's assurances to  
19 regulators that e-mail would not be overwritten or deleted, a number of electronic backup tapes  
20 containing e-mail were discarded during the production period by an employee who believed that  
21 they contained no recoverable e-mail. Internal or external third parties with forensic data retrieval  
22 expertise were not consulted to confirm that the tapes were corrupted and to assess whether  
23 restoration was possible using different technology.

24 70. In certain instances, Deutsche Bank neglected to restore backup tapes to determine  
25 whether they contained responsive e-mail. In other instances, Deutsche Bank incorrectly identified  
26 as "unavailable" backup tapes that were, in fact, available or in offsite storage facilities, and also  
27 stated that certain tapes had been overwritten when that turned out not to be the case. Deutsche  
28 Bank also discovered, after continued questioning by the regulators, that a large volume of e-mail

1 still existed on file servers, an offline help desk server, and backup tapes that had been scrapped but  
2 not yet overwritten. Once the tapes were restored and data retrieved from them, Deutsche Bank  
3 found certain e-mail for analysts for whom Deutsche Bank had previously stated that no e-mail  
4 existed. After Deutsche Bank had informed the regulators that it was close to completing its  
5 production, Deutsche Bank determined that it had the ability to retrieve certain previously-deleted  
6 e-mail which had not been retrieved by Deutsche Bank's original restoration process.

7 71. Deutsche Bank's inability to reliably locate and produce e-mail in response to  
8 regulatory requests and subpoenas, which resulted from a lack of guidance to information  
9 technology personnel, a lack of adequate procedures, and a lack of proper supervision, delayed the  
10 completion of the investigation into analyst conflicts of interest at Deutsche Bank by over a year.  
11 As the investigation continued, the regulators were forced to invest considerable time and resources  
12 to probe Deutsche Bank's e-mail production failures, including taking testimony from numerous  
13 information technology personnel. In response to the problems that were identified by the  
14 regulators in April 2003, Deutsche Bank took steps to ensure that the previously overlooked e-mail  
15 was restored and produced to regulators, and revised its procedures and protocol for gathering and  
16 producing historical e-mail. Ultimately, however, the failure of Deutsche Bank to fully and  
17 completely respond to the initial requests of the regulators significantly delayed the completion of  
18 the investigation for an unreasonable length of time.

19 72. Over the course of the following year, Deutsche Bank produced an additional 227,000  
20 e-mail -- more than three times the volume that it produced during the investigation as of  
21 December 2002.

22 73. By failing to timely produce e-mail, Deutsche Bank breached its obligation to comply  
23 with a reasonable regulatory request for documents that it is required by law to maintain and  
24 produce for inspection to the Commission staff and state regulators.

## 25 **VII. CONCLUSIONS OF LAW**

26 1. The California Department of Corporations has jurisdiction over this matter pursuant to the  
27 Corporate Securities Law of 1968 and California Corporations Code Section 25000 et seq.  
28

2. California Corporations Code section 25218 provides:

“No broker-dealer licensed under this chapter shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state in contravention of such rules as the commissioner may prescribe designed to promote just and equitable principles of trade, to provide safeguards against unreasonable profits or unreasonable rates of commissions or other charges, and in general to protect investors and the public interest, and to remove impediments to and perfect the mechanism of a free and open market.”

Title 10 California Code of Regulations Section 260.218 promulgated pursuant to Corporations Code section 25218 provides:

“Each broker-dealer and each agent employed by such a broker-dealer shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of such person’s business.”

Title 10 California Code of Regulations Section 260.218.4 promulgated pursuant to Corporations Code section 25218 provides:

- (a) Every broker-dealer shall exercise diligent supervision over the securities activities of all of its agents.
- (b) Every agent employed by a broker-dealer shall be subject to the supervision of a supervisor designated by such broker-dealer. The supervisor may be the broker-dealer in the case of a sole proprietor, or a partner, officer, office manager, or any qualified agent.

3. Corporations Code section 25241 provides:

(a) Every broker-dealer and every investment adviser licensed under Section 25230 shall make and keep accounts, correspondence, memorandums, papers, books, and other records and shall file financial and other reports as the commissioner by rule requires, subject to the limitations of Section 15(h) of the Securities Exchange Act of 1934 with respect to broker-dealers and Section 222 of the Investment Advisers Act of 1940 with respect to investment advisers.

(b) All records so required shall be preserved for the time specified in the rule.

(c) All records referred to in this section are subject at any time and from time to time to reasonable periodic, special, or other examinations by the commissioner, within or without this state, as the commissioner deems necessary or appropriate in the public interest or for the protection of investors.

(d) For the purpose of avoiding unnecessary duplications of examinations, the commissioner, insofar as he or she deems it practicable

in administering this section, may cooperate with the securities administrators of other states, the Securities and Exchange Commission and any national securities exchange or national securities association.

.....

California Code of Regulations, Title 10, section 260.241.1 provides:

(b) Every broker-dealer shall preserve for a period of not less than three years, the first two years of which shall be in an easily accessible place:

....

(4) Originals of all communications received and copies of all communications sent by the broker-dealer (including inter-office memoranda and communications) relating to its business, as such.

4. Deutsche Bank failed to ensure that analysts who issued research were adequately insulated from pressures and influences from covered companies and investment banking. This conduct violated Corporations Code section 25218 and Title 10 California Code of Regulations Section 260.218.

5. Deutsche Bank failed reasonably to supervise its employees to ensure that its analysts who issued research were adequately insulated from pressures and influences from covered companies and investment banking as required by Corporations Code Sections 25212(g) and 25218 and Title 10 California Code of Regulations Section 260.218.4.

6. Deutsche Bank failed to timely produce email data and, therefore, breached its obligation to comply with a reasonable regulatory request for documents that it is required by law to maintain and produce for inspection to the Commissioner, in violation of California Corporations Code Section 25241 and Section 260.241.1(b) of Title 10 of the California Code of Regulations.

7. Nothing in this Order shall be construed as a finding or admission of fraud.

The California Corporations Commissioner finds the following relief appropriate and in the public interest.

## **VII. ORDER**

On the basis of the Findings of Fact, Conclusions of Law, and Deutsche Bank's consent to the entry of this Order, for the sole purpose of settling this matter, prior to a hearing and without admitting or denying any of the Findings of Fact or Conclusions of Law,

1           IT IS HEREBY ORDERED:

2           1.       This Order concludes the investigation by the California Department of Corporations  
3 and any other action that the California Department of Corporations could commence under  
4 applicable California Law on behalf of the People of the State of California as it relates to certain  
5 research practices at Deutsche Bank described herein, provided however, that excluded from and not  
6 covered by this Paragraph 1 are any claims by the California Department of Corporations arising from  
7 or relating to the “Order” provisions herein.

8           2.       Respondent Deutsche Bank will desist and refrain from engaging in acts in violation  
9 of the California Corporate Securities Law of 1968 in connection with the research practices  
10 referenced in this Order and will comply the undertakings of Addendum A, incorporated herein by  
11 reference.

12          3.       As a result of the Findings of Fact and Conclusions of Law contained in this Order,  
13 Deutsche Bank shall pay a total amount of Eighty-seven Million Five Hundred Thousand Dollars  
14 (\$87,500,000.00). This total amount shall be paid as specified in the final judgment in the related  
15 action by the Securities and Exchange Commission against Deutsche Bank (“SEC Final  
16 Judgment”) as follows:

- 17           a.       Twenty-eight Million Seven Hundred Fifty Thousand Dollars (\$28,750,000.00) to  
18 the states (50 states, plus the District of Columbia and Puerto Rico), which amount  
19 includes the states’ portion of the penalty for violating Section 17(b) of the  
20 Exchange Act as specified in the SEC Final Judgment and related state law  
21 (Deutsche Bank’s offer to the state securities regulators hereinafter shall be called  
22 the “state settlement offer”). Upon execution of this Order, Deutsche Bank shall  
23 pay the sum of Three Million One Thousand, Three Hundred Twenty-Eight Dollars  
24 (\$3,001,328.00) of this amount to the California Department of Corporations as a  
25 civil monetary penalty pursuant to Corporations Code section 25535, to be  
26 deposited in the State Corporations Fund. Deutsche Bank shall pay an additional  
27 amount of Fifty Thousand Dollars (\$50,000.00) to the North American Securities  
28 Administrators Association, Inc. for costs incurred in the investigation of this

1 matter. The total amount to be paid by Deutsche Bank to state securities regulators  
2 pursuant to the state settlement offer may be reduced due to the decision of any state  
3 securities regulator not to accept the state settlement offer. In the event another  
4 state securities regulator determines not to accept Deutsche Bank's state settlement  
5 offer, the total amount of the State of California payment shall not be affected, and  
6 shall remain at \$3,001,328, and the amount payable to NASAA shall remain at  
7 \$50,000;

- 8 b. Twenty-five Million Dollars (\$25,000,000.00) as disgorgement of commissions,  
9 fees and other monies as specified in the SEC Final Judgment;
- 10 c. Twenty-five Million Dollars (\$25,000,000.00), to be used for the procurement of  
11 independent research, as described in the SEC Final Judgment;
- 12 d. Five Million Dollars (\$5,000,000.00), to be used for investor education, as specified  
13 in Addendum A, incorporated herein by reference;
- 14 e. Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000.00) to the SEC  
15 as a penalty for violating Section 17(b) of the Exchange Act, as specified in the SEC  
16 Final Judgment.

17 4. Deutsche Bank agrees that it shall not seek or accept, directly or indirectly,  
18 reimbursement or indemnification, including, but not limited to payment made pursuant to any  
19 insurance policy, with regard to all penalty amounts that Deutsche Bank shall pay pursuant to this  
20 Order or Section II of the SEC Final Judgment, regardless of whether such penalty amounts or any  
21 part thereof are added to the Distribution Fund Account referred to in the SEC Final Judgment or  
22 otherwise used for the benefit of investors. Deutsche Bank further agrees that it shall not claim,  
23 assert, or apply for a tax deduction or tax credit with regard to any state, federal or local tax for any  
24 penalty amounts that Deutsche Bank shall pay pursuant to this Order or Section II of the SEC Final  
25 Judgment, regardless of whether such penalty amounts or any part thereof are added to the  
26 Distribution Fund Account referred to in the SEC Final Judgment or otherwise used for the benefit  
27 of investors. Deutsche Bank understands and acknowledges that these provisions are not intended  
28 to imply that the California Department of Corporations would agree that any other amounts

1 Deutsche Bank shall pay pursuant to the SEC Final Judgment may be reimbursed or indemnified  
2 (whether pursuant to an insurance policy or otherwise) under applicable law or may be the basis for  
3 any tax deduction or tax credit with regard to any state, federal or local tax.

4 5. If payment is not made by Deutsche Bank or if Deutsche Bank defaults in any of its  
5 obligations set forth in this Order, the California Corporations Commissioner may vacate this  
6 Order, at its sole discretion, upon 10 days notice to Deutsche Bank and without opportunity for  
7 administrative hearing, and, further, Deutsche Bank agrees that any statute of limitations applicable  
8 to the subject of the Investigation and any claims arising from or relating thereto are tolled from  
9 and after the date of this Order.

10 6. This Order and any dispute related thereto shall be construed and enforced in  
11 accordance with, and governed by, the laws of the State of California without regard to any choice  
12 of law principles.

13 7. This Order is not intended by the California Department of Corporations to subject  
14 any Covered Person to any disqualifications under the laws of any state, the District of Columbia  
15 or Puerto Rico (collectively, "State"), including, without limitation, any disqualifications from  
16 relying upon the State registration exemptions or State safe harbor provisions. "Covered Person"  
17 means Deutsche Bank, or any of its officers, directors, affiliates, current or former employees, or  
18 other persons that would otherwise be disqualified as a result of the Orders (as defined below.)

19 8. The SEC Final Judgment, the NYSE Stipulation and Consent, the NASD Letter of  
20 Acceptance, Waiver and Consent, this Order and the order of any other State in related proceedings  
21 against Deutsche Bank (collectively, the "Orders") shall not disqualify any Covered Person from  
22 any business that they otherwise are qualified, licensed or permitted to perform under the  
23 applicable law of the state of California and any disqualifications from relying upon this state's  
24 registration exemptions or safe harbor provisions that arise from the Orders are hereby waived.

25 9. The Orders shall not disqualify any Covered Person from any business that they  
26 otherwise are qualified, licensed or permitted to perform under applicable state law.

27 10. For any person or entity not a party to this Order, this Order does not limit or create  
28 any private rights or remedies against Deutsche Bank including, without limitation, the use of any e-

1 mails or other documents of Deutsche Bank or of others regarding research practices, or limit or  
2 create liability of Deutsche Bank, or limit or create defenses of Deutsche Bank to any claims.

3 11. Nothing herein shall preclude the State of California, its departments, agencies,  
4 boards, commissions, authorities, political subdivisions and corporations, other than the California  
5 Corporations Commissioner and only to the extent set forth in paragraph 1 above, (collectively,  
6 "State Entities") and the officers, agents or employees of State Entities from asserting any claims,  
7 causes of action, or applications for compensatory, nominal and/or punitive damages,  
8 administrative, civil, criminal, or injunctive relief against Deutsche Bank in connection with certain  
9 research practices at Deutsche Bank.

10 12. Deutsche Bank agrees not to take any action or to make or permit to be made any  
11 public statement denying, directly or indirectly, any finding in this Order or creating the impression  
12 that this Order is without factual basis. Nothing in this Paragraph affects Deutsche Bank's: (i)  
13 testimonial obligations, or (ii) right to take legal or factual positions in defense of litigation or in  
14 defense of other legal proceedings in which the California Department of Corporations is not a  
15 party.

16 13. This Order shall be binding upon Deutsche Bank and its successors and assigns.  
17 Further, with respect to all conduct subject to Paragraph 2 above and all future obligations,  
18 responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions, the  
19 terms "Deutsche Bank" and "Deutsche Bank's" as used herein shall include Deutsche Bank's  
20 successors and assigns which, for these purposes, shall include a successor or assign to Deutsche  
21 Bank's investment banking and research operations, and in the case of an affiliate of Deutsche  
22 Bank, a successor or assign to Deutsche Bank's investment banking or research operations.

23 Dated this \_\_\_\_ day of \_\_\_\_\_, 2004.

24 BY ORDER OF THE CALIFORNIA CORPORATIONS COMMISSIONER

25  
26 By \_\_\_\_\_

27 WILLIAM P. WOOD  
28 California Corporations Commissioner  
California Department of Corporations

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**CONSENT TO ENTRY OF ADMINISTRATIVE ORDER**  
**BY DEUTSCHE BANK SECURITIES, INC.**

DEUTSCHE BANK SECURITIES, INC. hereby acknowledges that it has been served with a copy of this Administrative Order, has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the same.

DEUTSCHE BANK SECURITIES, INC. admits the jurisdiction of the California Department of Corporations, neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order; and consents to entry of this Order by the California Department of Corporations as settlement of the issues contained in this Order.

DEUTSCHE BANK SECURITIES, INC. states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Order voluntarily.

I, \_\_\_\_\_ represent that I am \_\_\_\_\_ of DEUTSCHE BANK SECURITIES, INC. and that, as such, have been authorized by DEUTSCHE BANK SECURITIES, INC. to enter into this Order for and on behalf of DEUTSCHE BANK SECURITIES, INC..

Dated this \_\_\_\_ day of \_\_\_\_\_, 2004.

DEUTSCHE BANK SECURITIES, INC.

By: \_\_\_\_\_  
Title: \_\_\_\_\_

SUBSCRIBED AND SWORN TO before me this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_